

APPEAL NO. 030627
FILED APRIL 28, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 5, 2003. The hearing officer determined that the decedent sustained a compensable injury on _____, resulting in his death. The appellant (self-insured) appeals, arguing that the hearing officer's decision constitutes legal error. The respondent (claimant/beneficiary) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the decedent was acting within the course and scope of his employment at the time that he was involved in a motor vehicle fatality. Course and scope of employment is defined as an activity of any kind or character that has to do with and originates in the work, business, trade, or profession of the employer and that is performed by an employee while engaged in or about the furtherance of the affairs or business of the employer. The term includes an activity conducted on the premises of the employer or at other locations. The general rule is that an injury occurring in the use of the public streets or highways in going to and returning from the place of employment is noncompensable. American General Insurance Co. v. Coleman, 303 S.W.2d 370 (Tex. 1957). An exception to the general rule is contained in Section 401.011(12)(A)(iii), which provides, in pertinent part, that travel to and from the place of employment is covered if the employee is directed in the employee's employment to proceed from one place to another place, i.e., is directed on a special mission.

There is sufficient evidence to support the determination that the decedent was acting at the employer's direction while furthering the employer's business and that he was in fact on a special mission at the time of the accident. The undisputed evidence reflects that the decedent was directed by his supervisor to pick up a computer at a work site other than the one where the decedent was assigned to work. Although the evidence was conflicting regarding when the decedent had been directed to pick up the computer, the hearing officer was persuaded by the testimony of the claimant/beneficiary, the decedent's widow that, on the day prior to the accident, the decedent had been instructed by his supervisor to go to the alternate work site to pick up the computer. Within very close proximity to the alternate work site, the decedent was involved in the accident that resulted in his death. The determination that the decedent was acting within the course and scope of his employment at the time of the fatal accident is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Accordingly, the decision and order of the hearing officer is affirmed.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Chris Cowan
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Michael B. McShane
Appeals Panel
Manager/Judge